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Department clarifies instructions for pass-through entities

SANTA FE—The Taxation and Revenue Department has clarified its instructions for pass-through entities when they elect to pay New Mexico income tax on behalf of their partners or members.

In the past, individual members of a pass-through entity were responsible for paying tax on income received from the entity. Under legislation passed by the 2022 New Mexico Legislature and signed into law by Gov. Michelle Lujan Grisham, pass-through entities such as partnerships, S-Corporations and Limited Liability Companies now have the option of filing directly if they elect to do so.

Information in a Question-and-Answer list published on the department’s website last month has been updated to reflect the correct way to make the election. That now reads:

When does the PTE have to make the election to be taxed directly?

The PTE will make the election to file the Entity Level Tax by filing the RPD-41367, PTW-D Pass-Through Entity Withholding Detail Report and selecting the “Entity Level Tax” under Section D. Reporting Detail. This election does require additional information to be reported within the return.

More information can be found at tax.newmexico.gov on the [Pass-Through Entity page](#).

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The Taxation and Revenue Department serves the State of New Mexico by providing fair and efficient tax and motor vehicle services. It administers more than 35 tax programs and distributes revenue to the State and to local and tribal governments throughout New Mexico.

The Department strives to reduce taxpayer burden through clearer communication, statutes, regulations, forms, correspondence and instructions.

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